IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.MC.No. 2331 of 2007()

CC.2562/2006 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI
[CRIME NO.395/2006 OF KOCHI KASBA POLICE STATION]

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PETITIONER: ACCUSED:

JOBY @ VARGHESE, S/O.KUNJAPPAN,
AGED 31 YEARS, PALATHARA VEEDU, OPPOSITE TO GIRLS HIGH SCHOOL, MATTANCHERRY, KOCHI-2.

BY ADV. SRI.JOHNSON P.JOHN
SRI.RAJU SEBASTIAN VADAKKEKKARA

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE, KASBA POLICE STATION, KOCHI.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2331 of 2007

Dated this the 20th day of July 2007

O R D E R

The petitioner faces indictment in a prosecution under Sections 324 and 326 I.P.C. The petitioner was on bail during the crime stage. After cognizance was taken, the petitioner did not appear. A warrant of arrest issued by the learned Magistrate is chasing the petitioner. The learned counsel for the petitioner submits that the petitioner is innocent. His failure to appear before the learned Magistrate was not wilful and was due to reasons beyond his control. The petitioner now wants to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007